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10/564,208	05/31/2006	Holger Ceskutti	10191/4584	7533
26646 7590 12/06/2010 KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004			EXAMINER CHEN, QING	
			ART UNIT 2191	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/564,208

Applicant(s)

CESKUTTI ET AL.

Examiner

Qing Chen

Art Unit

2191

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 18 October 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 17-32, 35 and 36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17-32, 35 and 36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. This Office action is in response to the amendment filed on October 18, 2010.
2. **Claims 17-32, 35, and 36** are pending.
3. **Claims 17, 18, 25-28, and 30** have been amended.
4. **Claims 1-16, 33, and 34** have been canceled.
5. The 35 U.S.C. § 112, second paragraph, rejections of Claims 17, 19, 21, 23, 25-32, 35, and 36 are withdrawn in view of Applicant's amendments to the claims.

***Response to Amendment***

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 17, 19, 21, 23, 29-32, 35, and 36** are rejected under 35 U.S.C. 103(a) as being unpatentable over US 2002/0019877 (hereinafter "Wrede") in view of US 2002/0035429 (hereinafter "Banas").

As per Claim 17, Wrede discloses:

**A method for remote programming of a device configured to be program-controlled** (page 3, “A method for transmitting data between a respective data processing unit on a provider side and a respective data processing unit on a user side ...”), **comprising:**

- **remotely transmitting program data from a control station via a long-distance connection to an interface connected to the device** (Figure 1; paragraph [0022], “In this case, the central transmitting terminal [control station] is constructed having a transmitting and/or receiving device ZKE. The motor vehicle 2 has a communications device, i.e. transmitting and/or receiving device KE, which is able to receive the transmitted data. Communications device KE can be constructed, for example, in the form of a car radio (reception only) or a mobile telephone (bi-directional) or a special telecommunications device having a transceiver which is permanently installed in the vehicle.”);

- **buffering the program data at the interface** (paragraph [0023], “Communications device KE routes the transmitted program data via a data bus DB1 to a central vehicle computer ZFR [interface], in which the data is checked, recorded and buffered.”);

- **remotely transmitting a legitimization from the control station to the interface, the legitimization forming a security code associated with the device** (paragraph [0022], “If, for example, improved software is to be given to a control unit on the vehicle side, a corresponding data transmission is carried out from an authorized transmitting terminal of the manufacturer, which in FIG. 1, is constructed as central transmitting terminal 1.”; paragraph [0026], “As a further prerequisite for the reprogramming of a control unit, it is advantageous if an identification code for the new program, which was sent to the central vehicle computer, be compared to an identification code of the original software stored in a control unit SG [device]

and exchanged, respectively.”; paragraph [0027], “To avoid misuse or an improper reprogramming, it is further possible to incorporate a plurality of passwords or codings [security code] in the entire communication chain from central transmitting terminal 1 up to respective control unit SG.”); *[Examiner’s Remarks: Note that an identification code for the new program is sent from the central transmitting terminal to the central vehicle computer for comparison. Further note that Wrede discloses that a plurality of passwords or codings can be incorporated in this communication chain as well.]*

- **forwarding the legitimization, unbuffered, to the device upon receiving the legitimization at the interface** (paragraph [0026], “As a further prerequisite for the reprogramming of a control unit, it is advantageous if an identification code for the new program, which was sent [forwarded] to the central vehicle computer, be compared to an identification code of the original software stored in a control unit SG [device] and exchanged, respectively.”); *[Examiner’s Remarks: Note that upon receiving the identification code for the new program from the central transmitting terminal at the central vehicle computer, the identification code for the new program is forwarded to a control unit SG directly for comparison with an identification code stored in the control unit SG. Thus, one of ordinary skill in the art would readily comprehend that the identification code for the new program is forwarded to the control unit SG without buffering.]*

- **checking, by the device, the legitimization for validity** (paragraph [0026], “Only when both identification codes have been checked by the central vehicle computer and/or the specific control unit and been established in a precisely defined manner as coinciding is the programming operation enabled.”); **and**

- **if the legitimization is determined to be valid, entering the program data in the device** (paragraph [0023], “Central vehicle computer ZFR is connected via a second bi-directional data bus DB2 to the peripheral control units on the user side actually to be programmed, i.e. destination control units SG1, SG2, etc., for the data or program exchange.”).

Wrede does not explicitly disclose:

- **that the device includes a memory.**

However, Banas discloses:

- **a device includes a memory** (paragraph [0013], “FIG. 1 illustrates an electronic control system 10 for a vehicle 12 (FIG. 2). The system 10 generally includes a processor 12, a reprogrammable memory 14, an input interface 16, an output interface 18, and a receiver 20 having an antenna 22.”).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Banas into the teaching of Wrede to include entering the program data in a memory of the device. The modification would be obvious because one of ordinary skill in the art would be motivated to store data/instructions of the device in a memory and execute the stored data/instructions by a processor.

As per Claim 19, the rejection of Claim 17 is incorporated; and Wrede further discloses:

- **wherein at least one of the legitimization and the program data is wirelessly transmitted via the long-distance connection** (Figure 1; paragraph [0022], “In this case, the central transmitting terminal is constructed having a transmitting and/or receiving device ZKE. The motor vehicle 2 has a communications device, i.e. transmitting and/or receiving device KE,

which is able to receive the transmitted data. Communications device KE can be constructed, for example, in the form of a car radio (reception only) or a mobile telephone (bi-directional) or a special telecommunications device having a transceiver which is permanently installed in the vehicle.”).

As per Claim 21, the rejection of Claim 19 is incorporated; and Wrede further discloses:

- **wherein the method is repeated if a fault occurs in the wireless transmission of at least one of the legitimization and the program data** (paragraph [0036], “However, if it is determined in step 104 that the control unit is not yet ready to receive, a jump is made back to step 103 where it is determined again whether the operating state of the motor vehicle still corresponds to the predefined operating state.”).

As per Claim 23, the rejection of Claim 21 is incorporated; and Wrede further discloses:

- **wherein at least one of the program data and the legitimization is forwarded via a wired connection from the interface to the device** (paragraph [0023], “Central vehicle computer ZFR is connected via a second bi-directional data bus DB2 to the peripheral control units on the user side actually to be programmed, i.e. destination control units SG1, SG2, etc., for the data or program exchange.”).

As per Claim 29, the rejection of Claim 23 is incorporated; and Wrede further discloses:

- **after entering of the program data into the memory of the device, checking whether the remote programming has been successfully completed** (paragraph [0029], “After

reprogramming has been successfully concluded, reprogrammed control unit SG1, SG2, etc., sends an acknowledgment to the central vehicle computer, which passes on a corresponding acknowledgment to communications unit KE.”), and

- **if the remote programming has been successfully completed, resuming an operation of the device, controlled by the program data** (paragraph [0024], “During the reprogramming, the control unit in question enters into a precisely defined standby state which cannot be changed during the programming process. A programming is expediently carried out as quickly as possible, e.g., within a few seconds.”; paragraph [0025], “So that no inexplicable delays arise for the driver or operator of the motor vehicle, a vehicle state is advantageously selected in which no inconvenience or disadvantages result for the driver during a programming.”; paragraph [0029], “After reprogramming has been successfully concluded, reprogrammed control unit SG1, SG2, etc., sends an acknowledgment to the central vehicle computer, which passes on a corresponding acknowledgment to communications unit KE.”).

As per Claim 30, Wrede discloses:

**A system for remote programming of a device** (page 4, “A system for transmitting data between a respective data processing unit on a provider side and a respective data processing unit on a user side ...”), **comprising:**

- **an interface configured to receive program data and a legitimization** (Figure 1; paragraph [0023], “Communications device KE routes the transmitted program data via a data bus DB1 to a central vehicle computer ZFR [interface], in which the data is checked, recorded and buffered.”; paragraph [0026], “As a further prerequisite for the reprogramming of a control

unit, it is advantageous if an identification code for the new program, which was sent to the central vehicle computer, be compared to an identification code of the original software stored in a control unit SG and exchanged, respectively.”); and

- **a device is configured to be remotely programmed and program-controlled, wherein the device is operatively connected to the interface, and wherein the legitimization forms a security code associated with the device** (paragraph [0023], “Central vehicle computer ZFR is connected via a second bi-directional data bus DB2 to the peripheral control units [device] on the user side actually to be programmed, i.e. destination control units SG1, SG2, etc., for the data or program exchange. For example, the engine management, an ABS system, an ELB system, an electronic stability program, an electrical pneumatic suspension, a transmission-shift control or a retarder control can be control units.”; paragraph [0026], “As a further prerequisite for the reprogramming of a control unit, it is advantageous if an identification code for the new program, which was sent to the central vehicle computer, be compared to an identification code of the original software stored in a control unit SG [device] and exchanged, respectively.”; paragraph [0027], “To avoid misuse or an improper reprogramming, it is further possible to incorporate a plurality of passwords or codings [security code] in the entire communication chain from central transmitting terminal 1 up to respective control unit SG.”); *[Examiner’s Remarks: Note that an identification code for the new program is sent from the central transmitting terminal to the central vehicle computer for comparison. Further note that Wrede discloses that a plurality of passwords or codings can be incorporated in this communication chain as well.]*

- **wherein the interface is configured to:**

- **buffer the received program data** (paragraph [0023], “Communications device KE routes the transmitted program data via a data bus DB1 to a central vehicle computer ZFR, in which the data is checked, recorded and buffered.”);

- **forward the received legitimization to the device immediately and without buffering, upon receiving the legitimization** (paragraph [0026], “As a further prerequisite for the reprogramming of a control unit, it is advantageous if an identification code for the new program, which was sent [forwarded] to the central vehicle computer, be compared to an identification code of the original software stored in a control unit SG [device] and exchanged, respectively.”); *[Examiner’s Remarks: Note that upon receiving the identification code for the new program from the central transmitting terminal at the central vehicle computer, the identification code for the new program is forwarded to a control unit SG directly for comparison with an identification code stored in the control unit SG. Thus, one of ordinary skill in the art would readily comprehend that the identification code for the new program is forwarded to the control unit SG without buffering.]* **and**

- **transmit the buffered program data to the device after a positive determination of validity of the legitimization by the device** (paragraph [0023], “Central vehicle computer ZFR is connected via a second bi-directional data bus DB2 to the peripheral control units on the user side actually to be programmed, i.e. destination control units SG1, SG2, etc., for the data or program exchange.”; paragraph [0026], “Only when both identification codes have been checked by the central vehicle computer and/or the specific control unit and been established in a precisely defined manner as coinciding is the programming operation enabled.”).

Wrede does not explicitly disclose:

- **wherein the device includes a processor and a program memory.**

However, Banas discloses:

- **wherein a device includes a processor and a program memory** (paragraph [0013], “FIG. 1 illustrates an electronic control system 10 for a vehicle 12 (FIG. 2). The system 10 generally includes a processor 12, a reprogrammable memory 14, an input interface 16, an output interface 18, and a receiver 20 having an antenna 22.”).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Banas into the teaching of Wrede to include wherein the device includes a processor and a program memory. The modification would be obvious because one of ordinary skill in the art would be motivated to store data/instructions of the device in a memory and execute the stored data/instructions by a processor.

As per Claim 31, the rejection of Claim 30 is incorporated; and Wrede does not explicitly disclose:

- **wherein the program memory is one of a flash memory and an EEPROM.**

However, Banas discloses:

- **wherein a program memory is one of a flash memory and an EEPROM** (paragraph [0017], “Preferably, the reprogrammable memory 14 includes an EEPROM, flash non-volatile memory, and/or other memory which can be reprogrammed.”).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Banas into the teaching of Wrede to include wherein the program memory is one of a flash memory and an EEPROM. The modification

would be obvious because one of ordinary skill in the art would be motivated to utilize a memory that can be reprogrammed (Banas, paragraph [0017]).

As per Claim 32, the rejection of Claim 30 is incorporated; and Wrede further discloses:

- **wherein the interface is operatively connected to a control station with the aid of a wireless long-distance connection** (paragraph [0022], “In this case, the central transmitting terminal [control station] is constructed having a transmitting and/or receiving device ZKE. The motor vehicle 2 has a communications device, i.e. transmitting and/or receiving device KE, which is able to receive the transmitted data. Communications device KE can be constructed, for example, in the form of a car radio (reception only) or a mobile telephone (bi-directional) or a special telecommunications device having a transceiver which is permanently installed in the vehicle.”).

As per Claim 35, the rejection of Claim 32 is incorporated; and Wrede further discloses:

- **wherein the device is a control unit that controls a subsidiary device** (Figure 1; paragraph [0022], “If, for example, improved software is to be given to a control unit on the vehicle side, a corresponding data transmission is carried out from an authorized transmitting terminal of the manufacturer, which in FIG. 1, is constructed as central transmitting terminal 1.”).

As per Claim 36, the rejection of Claim 35 is incorporated; and Wrede further discloses:

- **wherein the subsidiary device is one of: a motor vehicle; a component of the motor vehicle; and an engine** (Figure 1; paragraph [0022], “If, for example, improved software is to be given to a control unit on the vehicle side, a corresponding data transmission is carried out from an authorized transmitting terminal of the manufacturer, which in FIG. 1, is constructed as central transmitting terminal 1.”).

8. **Claims 18, 20, 22, and 24** are rejected under 35 U.S.C. 103(a) as being unpatentable over Wrede in view of Banas and US 2002/0129043 (hereinafter “Nakada”).

As per Claim 18, Wrede discloses:

**A method for remote programming of a device configured to be program-controlled** (page 3, “A method for transmitting data between a respective data processing unit on a provider side and a respective data processing unit on a user side ...”), **comprising:**

- **remotely transmitting program data from a control station via a long-distance connection to an interface connected to the device** (Figure 1; paragraph [0022], “In this case, the central transmitting terminal [control station] is constructed having a transmitting and/or receiving device ZKE. The motor vehicle 2 has a communications device, i.e. transmitting and/or receiving device KE, which is able to receive the transmitted data. Communications device KE can be constructed, for example, in the form of a car radio (reception only) or a mobile telephone (bi-directional) or a special telecommunications device having a transceiver which is permanently installed in the vehicle.”);

- **buffering the program data at the interface** (paragraph [0023], “Communications device KE routes the transmitted program data via a data bus DB1 to a central vehicle computer ZFR [interface], in which the data is checked, recorded and buffered.”);

- **remotely transmitting a legitimization from the control station to the interface** (paragraph [0022], “If, for example, improved software is to be given to a control unit on the vehicle side, a corresponding data transmission is carried out from an authorized transmitting terminal of the manufacturer, which in FIG. 1, is constructed as central transmitting terminal 1.”; paragraph [0026], “As a further prerequisite for the reprogramming of a control unit, it is advantageous if an identification code for the new program, which was sent to the central vehicle computer, be compared to an identification code of the original software stored in a control unit SG and exchanged, respectively.”);

- **buffering the legitimization at the interface by storing the legitimization together with the program data** (paragraph [0015], “According to a further example embodiment of the method of the present invention, the buffer storage is operatively connected to a central vehicle computer, or is constructed as part of this central vehicle computer.”; paragraph [0016], “Such a central vehicle computer is effectively able to check, record and temporarily store the transmitted data. The central vehicle computer can also have the ability to document the reprogramming, e.g., with identification codes, or to acknowledge to the provider side.”);

- **after the buffering of the legitimization, forwarding the legitimization to the device** (paragraph [0026], “As a further prerequisite for the reprogramming of a control unit, it is advantageous if an identification code for the new program, which was sent [forwarded] to the

central vehicle computer, be compared to an identification code of the original software stored in a control unit SG [device] and exchanged, respectively.”);

- **checking, by the device, the legitimization for validity** (paragraph [0026], “Only when both identification codes have been checked by the central vehicle computer and/or the specific control unit and been established in a precisely defined manner as coinciding is the programming operation enabled.”); **and**

- **if the legitimization is determined to be valid, entering the program data in the device** (paragraph [0023], “Central vehicle computer ZFR is connected via a second bi-directional data bus DB2 to the peripheral control units on the user side actually to be programmed, i.e. destination control units SG1, SG2, etc., for the data or program exchange.”).

Wrede does not explicitly disclose:

- **assigning a validity period to the legitimization; and**
- **wherein the checking includes checking of the validity period of the legitimization.**

However, Nakada discloses:

- **assigning a validity period to a legitimization** (paragraph [0078], “FIG. 11 shows an example of a construction in which validity period information 12 regarding the program is added to the program management information 5 in order to make the program for which the validity period has expired not selected.”); **and**

- **wherein checking includes checking of the validity period of the legitimization** (paragraph [0080], “After the central processing unit (CPU) 1a loads the program selected by the selection means 2, the central processing unit (CPU) 1a reads the content of each program in the

program management information 5 (111) and compares the date and time at that point with the validity period information 12 (112).”).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Nakada into the teaching of Wrede to include assigning a validity period to the legitimization; and wherein the checking includes checking of the validity period of the legitimization. The modification would be obvious because one of ordinary skill in the art would be motivated to provide a security mechanism in which the program data does not install in the case where the validity period of the program data has expired (Nakada, paragraph [0076]).

Wrede also does not explicitly disclose:

- **that the device includes a memory.**

However, Banas discloses:

- **a device includes a memory** (paragraph [0013], “FIG. 1 illustrates an electronic control system 10 for a vehicle 12 (FIG. 2). The system 10 generally includes a processor 12, a reprogrammable memory 14, an input interface 16, an output interface 18, and a receiver 20 having an antenna 22.”).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Banas into the teaching of Wrede to include entering the program data in a memory of the device. The modification would be obvious because one of ordinary skill in the art would be motivated to store data/instructions of the device in a memory and execute the stored data/instructions by a processor.

As per Claim 20, the rejection of Claim 18 is incorporated; and Wrede further discloses:

- **wherein at least one of the legitimization and the program data is wirelessly transmitted via the long-distance connection** (Figure 1; paragraph [0022], “In this case, the central transmitting terminal is constructed having a transmitting and/or receiving device ZKE. The motor vehicle 2 has a communications device, i.e. transmitting and/or receiving device KE, which is able to receive the transmitted data. Communications device KE can be constructed, for example, in the form of a car radio (reception only) or a mobile telephone (bi-directional) or a special telecommunications device having a transceiver which is permanently installed in the vehicle.”).

As per Claim 22, the rejection of Claim 20 is incorporated; and Wrede further discloses:

- **wherein the method is repeated if a fault occurs in the wireless transmission of at least one of the legitimization and the program data** (paragraph [0036], “However, if it is determined in step 104 that the control unit is not yet ready to receive, a jump is made back to step 103 where it is determined again whether the operating state of the motor vehicle still corresponds to the predefined operating state.”).

As per Claim 24, the rejection of Claim 22 is incorporated; and Wrede further discloses:

- **wherein at least one of the program data and the legitimization is forwarded via a wired connection from the interface to the device** (paragraph [0023], “Central vehicle computer ZFR is connected via a second bi-directional data bus DB2 to the peripheral control

units on the user side actually to be programmed, i.e. destination control units SG1, SG2, etc., for the data or program exchange.”).

9. **Claim 25** is rejected under 35 U.S.C. 103(a) as being unpatentable over Wrede in view of Banas as applied to Claim 23 above, and further in view of US 2004/0054444 (hereinafter “Abeska”).

As per Claim 25, the rejection of Claim 23 is incorporated; and Wrede and Banas do not explicitly disclose:

- **prior to the remote transmission of the program data to the interface, reading data from the memory of the device and transmitting the device memory data to the control station.**

However, Abeska discloses:

- **prior to a remote transmission of program data to an interface, reading data from a memory of a device and transmitting the device memory data to a control station** (paragraph [0050], “When a trigger for data upload occurs, the client vehicle 10, 210 may place a call to the call center to initiate a data upload request. The call center may then verify that the client vehicle 10, 210 is an active service subscriber, and request the uploading of any data that may be pending. After data is uploaded and confirmed received by the call center, the vehicle control processor 245 may clear the memory that was used to store the data, which may then be free to store new data.”).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Abeska into the teaching of Wrede to include prior to the remote transmission of the program data to the interface, reading data from the memory of the device and transmitting the device memory data to the control station. The modification would be obvious because one of ordinary skill in the art would be motivated to collect and store vehicle information in order to provide services or determine vehicle modules that need to be reprogrammed or replaced (Abeska, paragraphs [0002] to [0004]).

10. **Claims 26-28** are rejected under 35 U.S.C. 103(a) as being unpatentable over Wrede in view of Banas and Nakada as applied to Claim 24 above, and further in view of Abeska.

As per Claim 26, the rejection of Claim 24 is incorporated; and Wrede, Banas, and Nakada do not explicitly disclose:

- **prior to the remote transmission of the program data to the interface, reading data from the memory of the device and transmitting the device memory data to the control station.**

However, Abeska discloses:

- **prior to a remote transmission of program data to an interface, reading data from a memory of a device and transmitting the device memory data to a control station** (paragraph [0050], "When a trigger for data upload occurs, the client vehicle 10, 210 may place a call to the call center to initiate a data upload request. The call center may then verify that the client vehicle 10, 210 is an active service subscriber, and request the uploading of any data that

may be pending. After data is uploaded and confirmed received by the call center, the vehicle control processor 245 may clear the memory that was used to store the data, which may then be free to store new data.”).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Abeska into the teaching of Wrede to include prior to the remote transmission of the program data to the interface, reading data from the memory of the device and transmitting the device memory data to the control station. The modification would be obvious because one of ordinary skill in the art would be motivated to collect and store vehicle information in order to provide services or determine vehicle modules that need to be reprogrammed or replaced (Abeska, paragraphs [0002] to [0004]).

As per Claim 27, the rejection of Claim 26 is incorporated; and Wrede further discloses:

- **wherein the device memory data are buffered at the interface prior to being transmitted to the control station** (paragraph [0023], “Communications device KE routes the transmitted program data via a data bus DB1 to a central vehicle computer ZFR, in which the data is checked, recorded and buffered.”).

As per Claim 28, the rejection of Claim 26 is incorporated; and Wrede, Banas, and Nakada do not explicitly disclose:

- **wherein the control station arranges the program data on the basis of the device memory data.**

However, Abeska discloses:

- **wherein a control station arranges program data on the basis of device memory data** (paragraph [0033], “This VUI access may allow subscribers in their vehicles equipped in accordance with the present invention to access a variety of services. For example, subscribers 210 may request route information or travel information or may provide information about their route, using voice commands in a conversational manner. Furthermore, the subscriber may have the ability to interrupt or suspend the session if required. In one embodiment of the invention, connections are made to the service management application 240 through the public telephone system.”; paragraph [0039], “In one embodiment of the invention, the services are provided by any suitable weather reporting service. Weather services 248 may be used to receive and store regional and local weather information for playback to interested subscribers 210. Furthermore, the weather content can be delivered based on the vehicle location by coordinating the weather zone with the vehicle GPS location. The weather service 248 and/or content feed may be co-located with the service management system 240.”).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Abeska into the teaching of Wrede to include wherein the control station arranges the program data on the basis of the device memory data. The modification would be obvious because one of ordinary skill in the art would be motivated to provide a variety of services to a vehicle based on the vehicle’s data/information.

### ***Response to Arguments***

11. Applicant’s arguments filed on October 18, 2010 have been fully considered, but they are not persuasive.

***In the Remarks, Applicant argues:***

a) The Examiner contends that paragraph [0026] of Wrede describes forwarding of an unbuffered legitimization (the Examiner equates the identification code of Wrede with the claimed unbuffered legitimization). However, the cited paragraph of Wrede does not mention that the identification code is sent directly to the control unit SG without buffering. In fact, the entire Wrede reference is silent as to whether or not the identification code is buffered. Furthermore, sending the identification code directly from the central vehicle computer ZFR to the control unit SG does not necessarily mean that the identification code is sent without first buffering the identification code; instead, this at most suggests that the central vehicle computer ZFR sends the identification code without the aid of any intervening device. Therefore, Wrede does not disclose "forwarding the legitimization, unbuffered, to the device upon receiving the legitimization at the interface."

Additionally, to the extent that the Examiner is suggesting that it would be obvious to send the identification code without buffering, it should be noted that such an inference is inconsistent with the usage of the storage buffer as described in paragraphs [0016], [0021] and [0023] of Wrede. According to these paragraphs, the central vehicle computer ZFR temporarily stores transmitted data, i.e., the transmitted data is checked, recorded and initially buffered at the central vehicle computer ZFR before being sent to a destination control unit SG. Because transmitted data is buffered at the central vehicle computer, it follows that the identification code (which is also transmitted data) would be buffered in the same manner as transmitted program data. In other words, there is no distinction, according to Wrede, between different types of

transmitted data. Therefore, there is nothing to suggest that the identification code would be forwarded unbuffered to the control unit SG.

***Examiner's response:***

a) Examiner disagrees. Applicant's arguments are not persuasive for at least the following reasons:

First, without acquiescing to the Applicant's assertion that Wrede does not disclose "forwarding the legitimization, unbuffered, to the device upon receiving the legitimization at the interface," the Examiner first submits that those of ordinary skill in the art would give the term "unbuffer" its ordinary and customary meaning in the art. The term "unbuffer," as understood by those of ordinary skill in the art, means not storing data temporarily. Thus, when data is transferred directly from one device to another device without the aid of any intervening device, one of ordinary skill in the art would readily comprehend that the transferred data is unbuffered.

Second, with respect to the Applicant's assertion that Wrede does not disclose "forwarding the legitimization, unbuffered, to the device upon receiving the legitimization at the interface," as previously pointed out in the Non-Final Rejection (mailed on 08/04/2010) and further clarified hereinafter, the Examiner respectfully submits that Wrede clearly discloses **"forwarding the legitimization, unbuffered, to the device upon receiving the legitimization at the interface"** (paragraph [0026], "As a further prerequisite for the reprogramming of a control unit, it is advantageous if an identification code for the new program, which was sent [forwarded] to the central vehicle computer, be compared to an identification code of the original software stored in a control unit SG [device] and exchanged, respectively."). Note that upon

receiving the identification code for the new program from the central transmitting terminal at the central vehicle computer, the identification code for the new program is forwarded to a control unit SG directly for comparison with an identification code stored in the control unit SG. Thus, one of ordinary skill in the art would readily comprehend that the identification code for the new program is forwarded to the control unit SG without any intervening buffering.

Therefore, for at least the reasons set forth above, the rejections made under 35 U.S.C. § 103(a) with respect to Claims 17 and 30 are proper and therefore, maintained.

***In the Remarks, Applicant argues:***

b) The Examiner contends that paragraph [0078] of Nakada discloses an assigned validity period. However, the period disclosed in Nakada refers to the validity of the program itself, rather than the validity of a legitimization. According to Nakada, the program validity period is used to determine whether a pre-installed program should be deleted, e.g., after the program's trial period has expired. In contrast, the validity period of the legitimization according to claim 18 refers to a period during which the legitimization will be accepted as valid by the device being programmed. Thus, the legitimization's validity period relates to providing device access so that a program can be installed. This concept is expressly provided for in the claim 18 limitations "checking, by the device, the legitimization for validity, wherein the checking includes checking of the validity period of the legitimization" and "if the legitimization is determined to be valid, entering the program data in a memory of the device." Accordingly, the program validity period of Nakada does not constitute a legitimization validity period as provided in claim 18.

***Examiner's response:***

b) Examiner disagrees. With respect to the Applicant's assertion that the program validity period of Nakada does not constitute a legitimization validity period, the Examiner respectfully submits that Nakada clearly discloses **a legitimization validity period** (paragraph [0078], "FIG. 11 shows an example of a construction in which validity period information 12 regarding the program is added to the program management information 5 in order to make the program for which the validity period has expired not selected."). Note that the validity period information is assigned to the program. Thus, one of ordinary skill in the art would readily comprehend that assigning a validity period to a program and assigning a validity period to a legitimization are functionally equivalent. Both Nakada and the Applicant are attempting to test for the validity period of computer code. One of ordinary skill in the art would not attempt to distinguish a structural difference between program code and legitimization code as both are, ultimately, computer code.

Therefore, for at least the reason set forth above, the rejection made under 35 U.S.C. § 103(a) with respect to Claim 18 is proper and therefore, maintained.

***Conclusion***

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

13. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Qing Chen whose telephone number is 571-270-1071. The Examiner can normally be reached on Monday through Thursday from 7:30 AM to 4:00 PM. The Examiner can also be reached on alternate Fridays.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Wei Zhen, can be reached on 571-272-3708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the TC 2100 Group receptionist whose telephone number is 571-272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Q. C./

Examiner, Art Unit 2191

/Anna Deng/

Primary Examiner, Art Unit 2191